

EXHIBIT 5

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

LULA WILLIAMS, *et al.*,

Plaintiffs,

v.

MATT MARTORELLO, *et al.*,

Defendants.

Case No. 3:17-cv-00461-REP

CONSENT MOTION TO VACATE

Plaintiffs, by counsel, hereby move the Court to vacate the October 18, 2024 Order (ECF 1562). Plaintiffs believe that the order was intended to apply only to Case 3:19cv314 (in which Mr. Martorello is not a party) and not intended to require Mr. Martorello or his counsel or a representative of his participate or attend the proceedings on November 13, 2024. Because it was entered in Case 3:17-cv-00461 where Mr. Martorello is the only remaining defendant, however Mr. Martorello has taken the position that the entry of the order and its requirement that he have a representative attend the proceedings on November 13, 2024 is a violation of the automatic stay. *See* Oct. 24, 2024 Letter from Winikka. To avoid this conflict and because Plaintiffs do not believe it was intended to apply in this case, Plaintiffs have agreed to seek vacatur of the order in its entirety as Plaintiffs do not believe it was the intention of the Court to require Martorello to participate in the proceedings, through his counsel or otherwise, on November 13, 2024, including submission of a settlement conference memorandum.

Plaintiffs further note that they intend to proceed on November 13, 2024, because similar orders were entered in Galloway 2 where non-bankruptcy defendants remain.

Respectfully submitted,
LULA WILLIAMS, et al.,

By Kristi C. Kelly
Kristi Cahoon Kelly (VSB #72791)
Andrew Joseph Guzzo (VSB #82170)
KELLY GUZZO, PLC
3925 Chain Bridge Road, Suite 202
Fairfax, VA 22030
Telephone : (703) 424-7570
Facsimile : (703) 591-0167
E-mail: kkelly@kellyguzzo.com
E-mail: aguzzo@kellyguzzo.com
Counsel for Plaintiffs